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February 13, 2013

The Honorable Kurt Heise
State House of Representatives - 20th District
Criminal Justice Committee - Committee Chair
Room 327
House Office Building
Lansing, Michigan

Dear Representative Heise and Honored Committee Members;

I am here on behalf of the Michigan Association of Chiefs of Police (MACP) to support and endorse House Bills 4093 and 4131. As the chair person of the Traffic Safety Committee for the MACP, and a police veteran of more than 37 years of service, I stand before this committee and ask that you support these bills as well. By doing so, the legal limit for the blood alcohol content (BAC) of .08, as it relates to driving, shall be set in perpetuity.

Time prohibits me from giving you a lengthy and detailed report on the successes of keeping the BAC at its current limit. However, please allow me a moment to give you just a few details to underscore the importance of passing these bills as they relate to the human and economic losses to our great State.

Since the passing of the original bill in 2003, alcohol-involved crashes dropped by 32 percent; alcohol-involved fatal crashes have dropped by 23 percent, and alcohol-involved fatalities have dropped by 22 percent. Unfortunately, we are still killing an average of 337 people every year in alcohol related crashes. Although the general fear most of our residents have is that they will be the victim of some criminal psychopath, the reality of that occurring is far less likely than suffering a tragedy while driving home from work.

In 2011, the State reported that

- Of the 9,876,187 persons living in Michigan, one (1) out of every 11,109 was killed in a traffic crash. (889)
- Of the same 9,876,187 living in Michigan one (1) out of every 17,418 were murdered. (567).

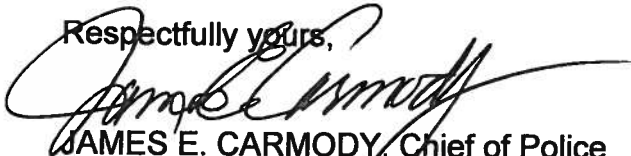
Statistically, you are four-times more likely to be victimized as the result of a traffic crash, than you are as the result of criminal action. And the differences in economic losses between the two are staggering.

- In 2009, the total monetary and non-monetary costs of index crimes in Michigan were estimated to be \$4.7 billion. In contrast, the total costs of traffic crashes in Michigan were estimated to be in excess of \$9 billion.

There are those who suggest that we allow the BAC to return to its original .10 mark, and forgo the \$50 million in Federal highway construction funds, rather than turn good people into criminals over a couple of drinks. Given our current economic situation, not only can we not turn away such funding, the additional costs that we will incur resulting from the expected increase in loss of life through more drunken driving crashes, has a far greater economic and societal impact.

Again, on behalf of all the members of the MACP, our officers, and the residents we serve, I ask that this committee support the passing and implementation of House Bills 4093 and 4131.

Respectfully yours,

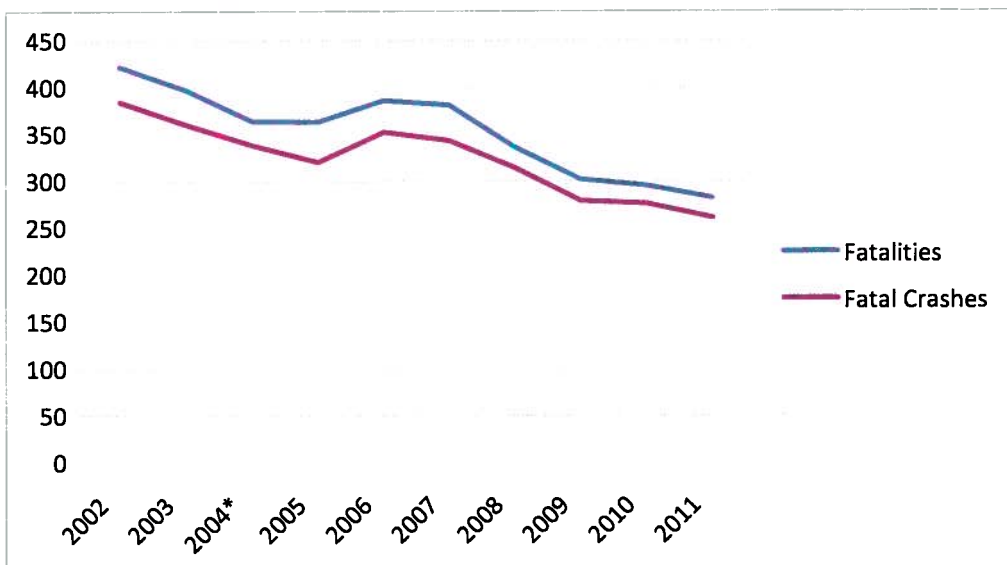


JAMES E. CARMODY, Chief of Police
Wyoming Police Department
MACP Traffic Safety Committee - Chair

Alcohol-Involved Crashes and Fatalities			
Year	Total Crashes	Fatal Crashes	Fatalities
2002	15,872	384	422
2003	15,124	360	397
2004*	14,591	338	364
2005	13,569	320	363
2006	12,644	352	386
2007	12,259	343	381
2008	11,126	314	336
2009	10,695	279	302
2010	10,005	276	295
2011	9,855	261	282

**Michigan's .08 BAC provision took effect on Oct. 1, 2003. As a result, the first full year of crash data under the .08 law is 2004.*

From 2004 to 2011, alcohol-involved crashes have dropped by 32 percent.
 From 2004 to 2011, alcohol-involved fatal crashes have dropped by 23 percent.
 From 2004 to 2011, alcohol-involved fatalities have dropped by 22 percent.



Traffic Safety Facts

Laws

Volume 2

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March 2004

.08 BAC Illegal *per se* Level

It is illegal *per se* (in itself) to drive a motor vehicle with a blood alcohol concentration (BAC) at or above a specified level in all States. The previous level in most states had been .10 BAC for drivers 21 and older, but now 45 States, the District of Columbia, and Puerto Rico have enacted laws that set a lower level of .08 BAC. In a 1992 Report to Congress, NHTSA recommended that all States lower the illegal *per se* level to .08 for all drivers 21 and older.

In 1998, as part of the Transportation Equity Act for the 21st Century (TEA-21), a new Federal incentive grant was created to encourage States to adopt a .08 BAC illegal *per se* level.

In 2000, Congress passed the DOT Appropriations Act of FY 2001, adopting .08 BAC as the national illegal limit for impaired driving. The statute provides that States that do not adopt a conforming .08 BAC law by October 1, 2003, will be subject to a withholding 2 percent of certain highway construction funds. Each year, the withholding percentage increases by 2 percent, up to 8 percent in FY 2007 and later. Those states that adopt a conforming .08 BAC law within 4 years of any withholding will be reimbursed for those withheld funds. If a State has not adopted a conforming .08 BAC law by October 1, 2007,

portions of its withheld funds shall begin to lapse and will no longer be available to the State

Key Facts

- In 2002, 41 percent of the 42,815 motor vehicle deaths were alcohol-related. This translates to 17,419 alcohol-related motor vehicle deaths during that year, accounting for an average of one alcohol-related fatality every 30 minutes.
- The National Highway Traffic Safety Administration's (NHTSA) position on the relationship between blood alcohol concentration and driving is that driving performance degrades with every drink.
- A comprehensive NHTSA study provides what is perhaps clear evidence of the significant impairment that occurs in the driving-related skills of all drivers with .08 BAC, regardless of age, gender, or drinking history.
- .08 BAC laws are effective in reducing alcohol-related fatal crashes. At least 10 studies, covering many of the States that have enacted .08 BAC laws, have consistently shown that .08 BAC laws are associated with reductions in alcohol-related fatalities, particularly in conjunction with the administrative

license revocation (ALR) laws that are present in 41 States.

- NHTSA has published several comprehensive studies on the effectiveness of .08 BAC laws. These studies found consistent and persuasive evidence that .08 BAC laws are associated with reduced incidence of alcohol-related fatal crashes. A study of the effectiveness of a .08 BAC law implemented in Illinois in 1997, found that the .08 BAC law was associated with a 13.7 percent decline in the number of drinking drivers involved in fatal crashes. The reduction included drivers at both high and low BAC levels. This is significant because critics of .08 BAC laws have often claimed that these laws do not affect the behavior of high BAC drivers. The study also found that there were no major problems reported by local law enforcement or court systems due to the change in the law. An updated analysis of Illinois's law estimated that 105 lives were saved in the first two calendar years since its implementation.
- In a comprehensive study of drivers involved in fatal crashes in all 50 states and DC from 1982-1997, it was estimated that .08 BAC laws reduced driver alcohol-related fatal crashes by 8 percent.

■ A 1999 report by the U.S. General Accounting Office (GAO) reviewed the studies available at that time and found *strong indications that .08 BAC laws, in combination with other drunk driving laws (particularly license revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement, can save lives.* The GAO report also concluded that a .08 (BAC) law can be *an important component of a State's overall highway safety program.*

Why .08?

The research is clear. Virtually all drivers, even those who are experienced drinkers, are significantly impaired at a .08 BAC. As early as 1988, a NHTSA review of 177 studies clearly documented this impairment. NHTSA released a later review of 112 more recent studies, providing additional evidence of impairment at .08 BAC and below. The results of the nearly 300 studies reviewed have shown that, at a .08 BAC level, virtually all drivers are impaired in the performance of critical driving tasks such as divided attention, complex reaction time, steering, lane changing, and judgment.

The risk of being in a crash gradually increases as a driver's BAC increases, but rises more rapidly once a driver reaches or exceeds .08 BAC compared to drivers with no alcohol in their blood stream. A recent study estimated that drivers at .08 to .09 BACs are anywhere from 11 to 52 times more likely to be involved in a fatal crash than drivers at .00 BAC, depending upon their age and gender.

Lowering the *per se* limit is an effective countermeasure that will reduce alcohol-related traffic fatalities, especially when combined with an ALR law. There was a 12 percent

reduction in alcohol-related fatalities in California in 1990 after a .08 and an ALR law went into effect. The decrease in alcohol-related fatalities occurred at both high and low BAC levels, including drivers with BAC levels of .20 or greater. A 1996 study at Boston University showed that States adopting .08 laws experienced 16 percent and 18 percent post-law declines in the proportions of fatal crashes involving fatally-injured drivers whose BAC levels were .08 or higher and .15 or higher, respectively. The Centers for Disease Control (CDC) and Prevention concluded that .08 BAC laws are associated with a median 7 percent reduction in alcohol-related traffic fatalities in States that adopt them.

The .08 BAC limit is reasonable and has the potential for saving hundreds of lives and reducing thousands of serious injuries each year, if implemented by all States.

The public supports a .08 BAC level. A survey conducted in 2001 indicated that 88% of the people in States with .08 laws support the law.

Point-Counterpoint

States considering .08 BAC laws should review all the facts, including the rationale behind the .08 goal and the potential impact on alcohol-related deaths. Opposition to .08 laws generally includes the following arguments:

■ **Point:** In 1999, the U.S. General Accounting Office (GAO) conducted a critical review of the .08 studies and concluded that these laws are not effective in reducing alcohol-related fatalities.

■ **Counterpoint:** This statement is not correct! The GAO report stated that there are *"strong indications that .08 BAC laws, in combination with other drunk driving laws (particularly license*

revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement, can save lives"

■ **Point:** ".08 BAC legislation will not affect problem drinker drivers who have high BAC levels."

■ **Counterpoint:** The latest research shows that .08 BAC laws not only reduce the incidence of impaired driving at lower BAC levels, they also reduce the incidence of impaired driving at higher BAC levels (i.e., over .10). A .08 BAC law serves as a general deterrent to all those who drink and drive because it sends a message that the State is getting tougher on impaired driving, and it makes many people think twice about getting behind the wheel after they have had too much to drink. A .08 BAC law should be a key component of any State's overall program to reduce impaired driving. While repeat offenders do account for a significant part of the problem, most fatally-injured drinking drivers have no prior alcohol-related offenses.

■ **Point:** .08 BAC laws make criminals out of normal social drinkers.

■ **Counterpoint:** Impairment and crash risk are the issues, not how many drinks it may take to get to a .08 BAC level. Numerous studies have indicated that at a .08 BAC level, virtually all drivers are impaired on critical driving tasks such as divided attention, complex reaction time, steering, lane changing, and judgment.

■ In addition, studies have shown that the risk of being involved in a fatal crash is much greater than at a .08 BAC level.

■ **Point:** ".08 is just the first step in a movement toward zero tolerance."

■ **Counterpoint:** A .08 BAC limit is not meant to restrict individuals from drinking alcohol. Rather, the limit exists to prevent individuals from operating a motor vehicle while impaired by alcohol, putting their own lives, and the lives of others at risk.

■ **Point:** .08 BAC laws will overwhelm police and clog the criminal justice system.

■ **Counterpoint:** Two studies, one in California and another in Illinois, looked at the impact of .08 BAC laws on enforcement efforts and the criminal justice system. These studies have not found any significant problems with the enforcement of lower BAC limits for police or the State courts.

.05 BAC Limit in Other Countries

The international trend continues to be to reduce illegal *per se* limits to .05 BAC or lower. The illegal limit is .05 BAC in numerous countries, including Australia, Belgium, Bulgaria, Denmark, Finland, France, Germany, Greece, Ireland, Israel, The Netherlands, Portugal, Russia, South Africa, Spain, and Turkey. Russia, Sweden and Norway have a limit of .02 BAC and Poland recently went to .03 BAC. Several countries have reported studies indicating that lowering the illegal *per se* limit from .08 BAC to .05 BAC reduces alcohol-related fatalities (e.g., Australia, Austria, Belgium, The Netherlands and France).

Laboratory studies from these countries indicate that impairment in critical driving functions begins at low BACs. Most subjects in these studies were significantly impaired at .05 BAC with regard to visual acuity, vigilance, drowsiness, psychomotor skills, and information processing, compared to their performance at .00 BAC.

Leading medical, crash prevention, public health and traffic safety organizations in the world support BAC limits at .05 or lower, including: the World Medical Association, the American and British Medical Associations, the European Commission, the European Transport Safety Council, the World Health Organization and the American College of Emergency Physicians.

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These reports and additional information are available from your State Highway Safety Office, the NHTSA Regional Office serving your State, or from NHTSA Headquarters, Impaired Driving and Occupant Protection Office, ATTN: NTS-111, 400 Seventh Street, S.W., Washington, DC 20590; 202-366-9588; or NHTSA's web site at **www.nhtsa.dot.gov**

Analysis of BAC in Relation to 0.08 Law

Prepared by: Carol Flannagan, Ph.D
University of Michigan Transportation Research Institute (UMTRI)

Prepared for: Michigan Office of Highway Safety Planning
January 23, 2013

Analysis

The 0.08 Blood Alcohol Content (BAC) limit for drivers was passed in late 2003. The new law reduced the legal limit from the 0.10 limit that was in force at the time. The question to be addressed by the analysis below is whether the law was effective in reducing drunken driving and/or crashes. The challenges for this analysis are that BAC information is not available before 2004 and that we do not know what the underlying base rates of BAC are among drivers who are not stopped. Because of these limitations, we can only infer from trends over time whether the 0.08 law has changed the landscape of drunk driving in Michigan.

Figure 1 show the percent of crashes involving drinking as a percentage of all crashes in Michigan from 2004-2011. The trend over years is decreasing, though the bulk of the decrease occurred between 2006 and 2008. This decrease cannot be directly tied to the BAC law, but is consistent with an effective law. It may have resulted from any combination of improvements in education and enforcement related to the reduced BAC limit or from increased awareness of the dangers of drunk driving not specifically related to the law.

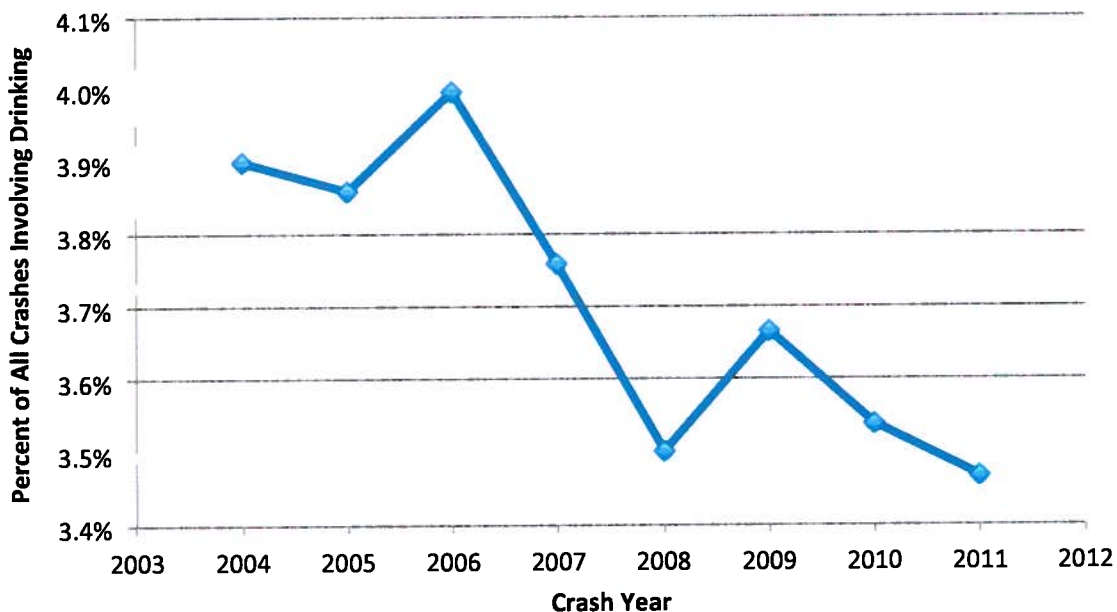


Figure 1. Percent of all crashes that involve drinking by crash year.

Figure 2 shows the number of alcohol tests by year. The overall decrease in testing corresponds to a similar overall decrease in total crashes over the same timeframe. However, the relative distribution of blood and breathalyzer tests has changed over these years such that blood testing is more common and breathalyzer testing less common. In addition, the percent of alcohol-crash-involved drivers who are tested has gone up slightly. This suggests that resources are being allocated to more precise testing and that police are slightly improving targeting drivers in crashes who were drinking. However, overall, the picture of testing has changed only a little over the time frame.

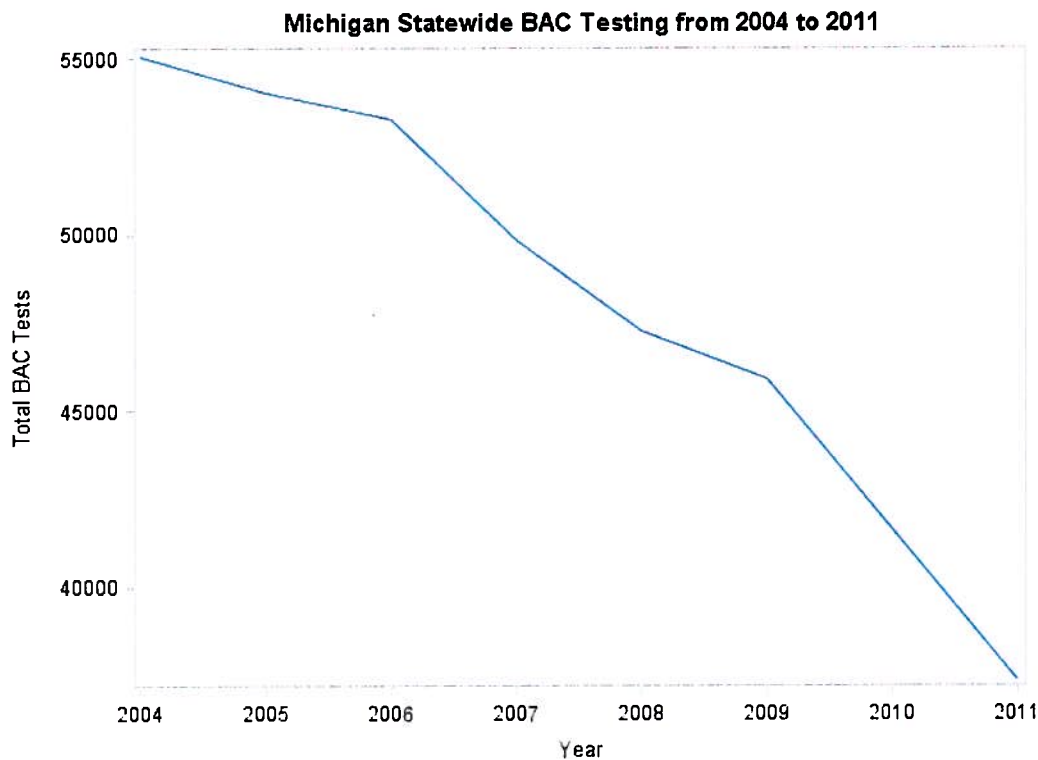


Figure 2. Number of BAC tests per year.

Figure 3 shows the distribution of blood test results by year. The results are grouped into four categories: 0 BAC (not drinking), 0.01-0.07 (drinking but under legal limit), 0.08-0.09 (illegal under current law but not old law), and 0.10+ (illegal under both laws). The largest group of drivers who are tested have 0 BAC, and the second largest group has 0.10+ BAC. However, over the 5 years of data available, there is a slight decrease in the percentage at the highest BAC levels. This is consistent with an effective law, but also consistent with a pattern of testing that captures more non-drinking drivers.

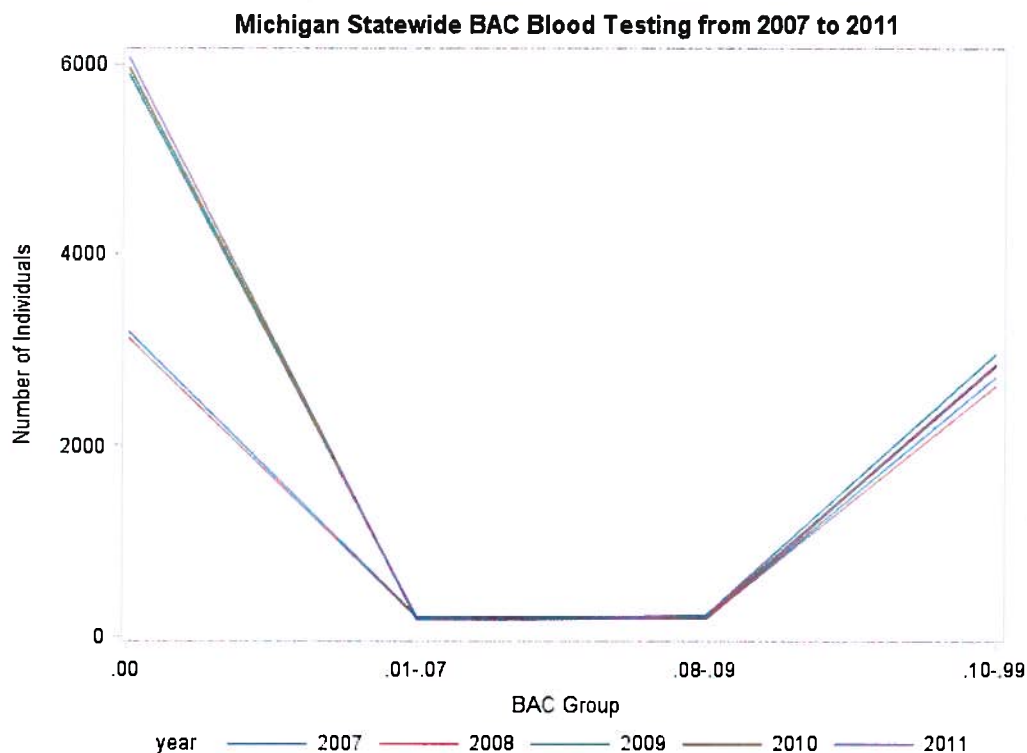


Figure 3. Percent of test results in each BAC category by year.

Conclusion

The data available are insufficient to conclusively determine whether the lower BAC limit is effective at reducing crashes or not. One of the biggest data challenges is that without random testing, there is no way to know how many drivers on the road are above or below the legal limit. However, the trends seen in available data since the BAC limit was lowered are consistent with a pattern of improvement in drunk-driving crashes.

First, alcohol-involved crashes are decreasing as a percentage of all crashes. Whether this is because of the law or co-occurring with the law cannot be determined, but this decrease points to successes, especially in 2007-2008, that indicate that programs in effect (including the 0.08 law) had an impact on alcohol crashes.

Second, the propensity of officers to require testing has remained about the same over the years analyzed, but blood tests are replacing breathalyzer tests as the more common testing approach. Over time, BAC results are showing a slight increase in the percentage of 0 BAC cases and a slight decrease in the percentage of 0.10+ BAC cases out of all tests each year. Cases in the 0.01-0.09 range are few enough that it is difficult to identify whether there are changes in their proportion. Again, these results are consistent with a law that motivates drivers to drink less or not at all, though there is no conclusive proof that the law has caused these changes.

The decrease in alcohol-involved crashes from 2004 to 2011 is the best evidence of success of programs that have been introduced over that timeframe. This analysis is unable to distinguish the effects of specific education or enforcement

programs or even to determine that the change in law caused the decrease. However, the patterns in the data are consistent with the idea that the law has been beneficial, and they suggest that furthering programs that have been in place within this time frame should help decrease drunk-driving crashes.